

Agenda Item #1

The following claims have been filed in the Office of the City Clerk during the month of October 2012. The claims were subsequently referred to the Office of the Corporation Counsel.

**NOTICE OF CLAIM**

Augustino-Rafferty, Linda sidewalk. 7995 Crestview Drive	Personal injuries sustained from falling on sidewalk.
Hamilton, Carlene c/o Richard A. Hall, Esq.	Personal injuries sustained from falling on a raised rope in playground.
Wolcott, Maria 1242 86 <sup>th</sup> Street	Personal injuries sustained from falling on broken pavement.
Myers, William Jeffrey 7052 Little Mountain Road Sherrills Ford, NC 28673	Automobile damages sustained from pot hole.
Verizon CMR Claims Dept PO Box 60770 Oklahoma City, OK 73146-0770	Property damages sustained during road work
Boyce, Jacqueline 6836 Walmore Rd	Automobile damages caused by loose manhole cover.
Steffan, Patricia 13 Tennessee St Buffalo, NY 14204	Personal injuries sustained from falling by a drain hole.
Peffer, Margie c/o Richard A. Hall Esq.	Personal injuries sustained from falling in parking lot at Niagara Falls Memorial Center
Harris, Susan c/o 1419 Osborne Ct.	Personal injuries sustained from falling on an uneven sidewalk.
Reynolds III, Bruce 908 87 <sup>th</sup> St	Automobile damages sustained from parking in NFFD parking lot.
Messina, Kara 33 Whitfield Ave. Buffalo, NY 14220	Personal injuries sustained from falling in a pot hole.
Hamilton, Carlene S. c/o William Mattar	Personal injuries sustained when fell on rope on playground.

**SUMMONS**

LaFarge North America, Inc. c/o Seth L. Hibbert, Esq.	#148310
LaFarge North America, Inc. c/o Seth L. Hibbert, Esq.	#148312
Sue-Perior Concrete & Paving, Inc. John P. Bartolomei, Esq.	#E148400/2012

Agenda Item #10

WHEREAS, on November 9<sup>th</sup>, 2012, the Mt. Zion Missionary Baptist Church celebrated their 50<sup>th</sup> Anniversary; and

WHEREAS, in 1962 Mt. Zion was born when a faithful group of committed Christians organized a series of prayer meetings and services on a 13<sup>th</sup> street lawn, and in a Highland Avenue garage; and

WHEREAS, the Church purchased a small church at 1332 Calumet Avenue and on July 14<sup>th</sup>, 1963 called its first Pastor, the Rev. W.R. Vaughn. On March of 1970, they called its second Pastor, the Rev. Matthew J. Bushelon; and

WHEREAS, after the Church grew, they held their first service on August 4<sup>th</sup>, 1974 in the present 1334 Calumet Avenue building which is a beacon to the Highland Community; and

WHEREAS, Mt. Zion has been a positive force in the Community and the City, with its Vacation Bible School, Food Pantry and many other community services.

NOW THEREFORE BE IT RESOLVED, that the members of the Niagara Falls City Council are honored to pay tribute to the Mt. Zion Missionary Baptist Church on the celebration of their 50<sup>th</sup> Anniversary.

Agenda Item #11

BE IT RESOLVED, that the following individual is hereby re-appointed to the City of Niagara Falls Senior Citizen Council effective immediately for the expiration date, which appears opposite his/her name:

**RE-APPOINTMENT**

**TERM EXPIRES:**

Ed Weber  
1306 Maple Avenue  
Niagara Falls, NY 14305

12/31/2014

Agenda Item #12

**WHEREAS**, the City of Niagara Falls Bridge Repair - Minor Maintenance Project: Three (3) Bridge Deck Overlays, BINs 2043870, 2060200 & 2260900 and One (1) Bridge Joint Replacement. Wash & Seal and Bearing Lubrication, BIN 2260880, City of Niagara Falls, Niagara County, PIN 5760.19 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds; and

**WHEREAS**, the City of Niagara Falls desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases of the project PIN 5760.19; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Niagara Falls, duly convened does hereby; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Niagara Falls hereby authorizes the City of Niagara Falls to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases of the Project or portions thereof; and

**BE IT FURTHER RESOLVED**, that the sum of \$ 185,000 is hereby appropriated (in addition to \$ 25,000 previously appropriated for the project's Preliminary Engineering (Design I-VI) phase via City Resolution No. 2011-47 adopted on June 13<sup>th</sup>, 2011) and made available to cover the cost of participation in the above phases of the Project; and

**BE IT FURTHER RESOLVED**, that in the event the amount required to pay the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 210,000, the City of Niagara Falls shall convene its Council as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and

**BE IT FURTHER RESOLVED**, that the Mayor of the City of Niagara Falls be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City of Niagara Falls with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and

**BE IT FURTHER RESOLVED**, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and

**BE IT FURTHER RESOLVED**, this Resolution shall take effect immediately.

Agenda Item #13

**WHEREAS**, the Project to Paint the Porter Avenue Bridge over the CSX Railroad, BIN 2039560, in the City of Niagara Falls, Niagara County, PIN 5760.18 (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds; and

**WHEREAS**, the City of Niagara Falls desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases of the project PIN 5760.18; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Niagara Falls, duly convened does hereby; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Niagara Falls hereby approves the above-subject project; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Niagara Falls hereby authorizes the City of Niagara Falls to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases of the Project or portions thereof; and

**BE IT FURTHER RESOLVED**, that the sum of \$ 67,000 is hereby appropriated (in addition to \$ 15,000 previously appropriated for the project's Preliminary Engineering (Design I-VI) phase via City Resolution No. 2011-34 adopted on May 2<sup>nd</sup>, 2011) and made available to cover the cost of participation in the above phases of the Project; and

**BE IT FURTHER RESOLVED**, that in the event the amount required to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases exceeds the amount appropriated, \$ 82,000 and/or 100% of the full Federal and Non-Federal shares of the cost of the project's Preliminary Engineering (Design I-VI) and Construction & Construction Inspection phases exceeds \$ 350,000, the project's current Total Cost, the City of Niagara Falls shall convene its Council as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and

**BE IT FURTHER RESOLVED**, that the Mayor of the City of Niagara Falls be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City of Niagara Falls with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal Aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and

**BE IT FURTHER RESOLVED**, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and

**BE IT FURTHER RESOLVED**, this Resolution shall take effect immediately.

Agenda Item #14

**RESOLVED**, that Local Law No. \_\_\_\_ for the year 2012 be introduced, and that a public hearing be held on such Local Law on the 26<sup>th</sup> day of November, 2012 at 7:00 p.m. Standard Time, in the Council Chambers of the City of Niagara Falls, New York and that three (3) days notice of such hearing be published in the Niagara Gazette preceding said hearing relative to amending Article XI by amending Section 294-a relative to increasing the number of Board of Library Trustees from five (5) members to nine (9) members.

## Agenda Item #2

A contract for consultant services for the above referenced project was awarded to Wendel-Duchscherer, Architects and Engineers, Inc. (WD), 140 John James Audubon Pkwy, Suite 201, Buffalo, NY 14228 by City Council on July 25, 2005 and dated January 3, 2006, which was subsequently extended on February 11, 2010 to include right-of-way services, final design, and other services associated with the above project.

Since that time, substantial “pre-obligation” requirements of the TIGER II Grant’s federal funding agency –Federal Railroad Administration and additional “pre-construction” activities have resulted in additional costs associated with the final design phase of the station project.

These ongoing and additional work activities will progress the Project through the bidding preparation before award and construction. This ongoing and additional work tasks total \$268,750.00. A more detailed explanation of work activities completed and proposed are contained in the letter and services summary provided by Susan Sherwood, Wendel Project Manager, dated July 20, 2012, and made an attachment hereto.

The 15.6% local (non-federal) matching share of this contract amendment amount has previously been approved by Council. Those dollars are dedicated for this project. The non-local share above 15.6% is fully reimbursable under the terms of the existing NYS-DOT Supplemental Agreement No. 2 (Comptroller's Contract No. D017307 for the NF Intermodal Transportation Center Project –PIN 5756.28), which specifically stipulates for reimbursement of expenditures, to the City, up to \$4,366,856.83.

Will the Council vote to so approve and authorize the Mayor to execute a contract extension in a form acceptable to the Corporation Council?

### Agenda Item #3

Please recall that the August 11, 2012 HRC Event featuring KC and the Sunshine Band (“KC”) was cancelled mid-way through the show prior to KC taking the stage because of severe and inclement weather. The Co-Promotion Agreement dated March 13, 2012 by and between the City and HRC addresses the cancellation of an Event for reasons such as inclement weather and allows HRC the ability to “reschedule the Event with the same Artist to occur at a future date and time that is mutually agreeable to the CNF, HRC and the Artist.” Discussions have taken place among the parties and two (2) future dates have emerged as dates that are mutually agreeable to all. The first mutually agreeable date is Saturday, August 10, 2013 and the second mutually agreeable date is Saturday, August 31, 2013. The preferable date is Saturday, August 10, 2013.

Since the City has already paid HRC for the cost of KC and the production fees for this Event, there will be no further cost to the City in this regard. The only cost to the City will be for City services to support this event.

Will the Council so approve?

#### Agenda Item #4

The City has been approached by Jim Haid, Coordinator of the Isaiah 61 Project, to acquire the City owned parcel located at 2215 Whitney Avenue, Niagara Falls, New York (the "Premises"). The City acquired the Premises in the 2011 In-Rem tax foreclosure proceeding. Attached hereto is a copy of a printout from the Assessor's office and accompanying photograph. The Isaiah 61 Project proposes to acquire the Premises from the City for the sum of \$500.00 and rehab the structure in collaboration with Orleans/Niagara BOCES in a vocational training program to benefit underemployed and low income residents of the City of Niagara Falls. Attached hereto is a copy of a communication from the Isaiah 61 Project which describes its plans for the Premises (and others) and also contains a narrative about the Isaiah 61 Project.

Once the Premises is successfully rehabilitated, the home will be offered for sale to a qualified low to moderate income family pursuant to HUD guidelines. The long term benefit to the City is identified as being the rehabilitation of a structure which will become a home for a qualified family rather than allowing the structure to continually deteriorate and ultimately be placed on the City's demolition list. The immediate benefit to the City is that the City will be relieved from the burden of maintaining the Premises, inclusive of cutting the grass and paying county and school district taxes.

The Planning Board has reviewed this matter and has recommended that the Premises be sold to Isaiah 61 Project as described. Attached is a copy of the Planning Board's recommendation.

Will the council so approve and find that the proposed sale of the premises to Isaiah 61 Project is in the best interest of the City, that the best interest of the City will be subserved by dispensing with a sale at public auction and that the sale of the premises take place pursuant to terms and conditions contained in a contract satisfactory to the Corporation Counsel and authorize the Mayor to execute such a contract as well as any and all documents necessary to accomplish the sale?

Agenda Item #5

Date Claim Filed:	September 7, 2012
Date Action Commenced:	N/A
Date of Occurrence:	July 18, 2012
Location:	Porter Road, 200 feet east of Hyde Park.
Nature of Claim:	Automobile damage sustained in an accident with City vehicle
City Driver:	James Dolson
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$549.48
Make Check Payable to:	David Hutcheson
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim be paid under the terms set forth above. Will the Council so approve?

Agenda Item #6

Date Claim Filed:	September 12, 2012
Date Action Commenced:	N/A
Date of Occurrence:	July 17, 2012
Location:	740 Tenth Street, Niagara Falls, New York
Nature of Claim:	Theft of property while on duty with NFFD.
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim, contractual obligation.
Amount to be Paid:	\$250.00
Make Check Payable to:	Frank Cacciatore
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim be paid under the terms set forth above. Will the Council so approve?

Agenda Item #7

Date Claim Filed:	June 6, 2011
Date Action Commenced:	N/A
Date of Occurrence:	May 11, 2011
Location:	511 Third Street
Nature of Claim:	Property damage sustained in an accident with City vehicle
City Driver:	Jermaine Harris
Status of Action:	Claim stage.
Recommendation/Reason:	Best interests of City to pay claim.
Amount to be Paid:	\$885.60
Make Check Payable to:	Louis Muzzillo
Conditions:	General Release to City, approved by Corporation Counsel.

It is the recommendation of this Department that the above claim be paid under the terms set forth above. Will the Council so approve?

Agenda Item #8

Chapter 338 of the Codified Ordinances states: “338.03...City Council may grant a license to carry on the business of secondhand dealer within the City...”

The following have submitted applications for secondhand dealer license and Pawnbroker Dealer license. This application has been approved by the Niagara Falls Police Department.

National Unlimited Properties Developers LLC (2 Locations)

2522 Pine Ave  
&  
5647 Niagara Falls Blvd.

Lawrence Hawkins

Will the Council So approve?

Agenda Item #9

WHEREAS, on October 13<sup>th</sup>, 2012, a member of the Cristoforo Colombo Society collapsed and went unresponsive during their Annual Columbian Awards Dinner; and

WHEREAS, Honorary Colombian Award winner Janet Ligammari, a registered nurse; Niagara Falls Fire Department Captain Jason Zona and fellow Fire Captain Bernard Lucantonio attended to the victim who was determined to be in cardiac arrest; and

WHEREAS, Ms. Ligammari, Captains Zona and Lucantonio provided CPR, doing rescue breathing and chest compressions to the patient while 911 was notified and the Niagara Falls Fire Department responded; and

WHEREAS, the patient, through that care, regained a pulse and consciousness upon arrival of the Fire Department. The citizen was transported to Niagara Falls Memorial Medical Center and was admitted to the ICU where he was released from within a few days, doing well.

NOW THEREFORE BE IT RESOLVED, that Niagara Falls Fire Department Captains Zona and Lucantonio and Ms. Ligammari be recognized for their heroic efforts and quick response in attending to the victim of this unfortunate incident. Thankfully, due to their professional attendance to the victim, they were able to save a life and prevent a tragic ending. We ask the citizens of the City of Niagara Falls to join the Niagara Falls City Council in saying "THANK YOU" to them regarding their quick, professional response.